

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12**

**JERED INDUSTRIES, INC.**

**Employer**

**and**

**Case 12-RC-8453**

**UNITED ASSOCIATION OF JOURNEYMEN AND  
APPRENTICES OF THE PLUMBING AND  
PIPEFITTING INDUSTRY OF THE UNITED STATES  
AND CANADA, LOCAL UNION NO. 177, AFL-CIO<sup>1</sup>**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,<sup>2</sup> the undersigned finds:

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<sup>1</sup> The name of the Petitioner appears as amended at the hearing.

<sup>2</sup> The briefs filed by the parties have been carefully considered.

1. The hearing officer's rulings made at the hearing are free from prejudicial error and hereby are affirmed.<sup>3</sup>
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>4</sup>
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees employed by the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The Petitioner seeks to represent a unit consisting of all full-time and regular part-time employees including welders, fitters, assemblers, pre-processing, painters, blasters, shipping and receiving employees employed by the Employer at its Brunswick, Georgia, facility and excluding all maintenance employees, quality assurance

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<sup>3</sup> At the opening of the hearing, the Employer requested that administrative notice be taken of the Decision and Direction of Election in Jered Brown Brothers, Inc., Case 12-RC-7654, issued November 1, 1993, and the Decision and Direction of Election in Jered Brown Brothers, Inc., Case 12-RC-7802, issued December 30, 1994. The Petitioner objected thereto because Jered Brown Brothers, Inc. had been sold and "conditions" at the manufacturing facility had changed thereafter, and the Petitioner did not have an opportunity to cross-examine the witnesses who testified in the prior proceedings. The hearing officer granted the Employer's request and I find no basis to overrule him. It should be noted that the Petitioner had been the petitioner in Jered Brown Brothers, Inc., 12-RC-7654. The record shows that Jered Brown Brothers, Inc. was sold to the Employer some time after the issuance of the prior decisions. There is no history of collective bargaining involving the petitioned-for facility, whether operated by the Employer or its predecessor. In the prior decisions, the petitioned-for unit employees included various job classifications employed at the manufacturing facility, some of which are the same or similar to the job classifications involved herein; however, other job classifications have been changed or eliminated at the manufacturing facility. The hearing officer did not preclude the Petitioner from proffering any evidence related to its contention of changes in conditions at the manufacturing facility, nor did he preclude either party from proffering evidence related to any disputed issue herein. In these circumstances, my findings and conclusions shall be supported solely by the record herein.

<sup>4</sup> The parties stipulated that Jered Industries, Inc., herein called the Employer, is a Delaware corporation with an office and place of business located in Brunswick, Georgia, where it is engaged in the design, engineering and manufacturing of marine specialty equipment and related products. During the past 12 months, a representative period, the Employer in the course and conduct of its business operations sold and shipped products valued in excess of \$50,000 directly to points located outside the State of Georgia.

employees, production processors, production controllers, field service technicians, office clerical employees, guards and supervisors as defined in the Act.

The Employer contends that the following five job classifications share a community of interest with the petitioned-for unit employees and should be included in the unit: quality assurance employees, maintenance employees, production processors, production controllers, and field service technicians. The Petitioner asserts that none of those five job classifications shares a community of interest with the petitioned-for unit employees and each should be excluded from the unit.

The Petitioner states that there are approximately 52 to 54 employees in the petitioned-for unit, and the Employer states that there are approximately 56. There are five quality assurance employees, four maintenance employees, two production processors, one pre-processing processor,<sup>5</sup> two production controllers, and two field service technicians. Thus, the Employer's unit would consist of approximately 72 employees.

I find that the petitioned-for unit is an appropriate unit as the record evidence fails to establish that the maintenance employees, production processors, production controllers, and field service technicians share a sufficient community of interest with the petitioned-for unit employees so as to require their inclusion in the appropriate unit. With respect to the quality assurance employees, the record evidence is insufficient to make a finding as to their community of interest with the petitioned-for unit

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<sup>5</sup> In its brief, the Employer asserts that the "pre-processing processor" is the same classification identified as "pre-processing" by the Petitioner in its unit description. However, in its brief, the Petitioner states that it does not seek to represent the three production processors and the two production controllers who are supervised by the production control supervisor, which would include the "pre-processing processor". There is evidence that the "pre-processing" employees work in a defined area off the production floor in building 1, whereas the pre-processing processor works in building 7 with the other production processors and production controllers. The record does not clarify this issue. Accordingly, any "pre-processing processor" or "pre-processing" employee shall be permitted to vote subject to challenge in the election directed herein.

employees. Accordingly, the quality assurance employees shall be permitted to vote subject to challenge in the election directed herein.

### FACTS

The Employer designs, engineers and manufactures complicated marine specialty equipment for the United States Navy, such as steering gears, elevators, anchor windlasses and related products. The Employer also manufactures equipment for private industry such as commercial fabrications and cranes. Its manufacturing facility, known as Liberty Works, is located in Brunswick, Georgia. Its corporate offices are located in downtown Brunswick. The manufacturing facility consists of buildings 1 and 4 (attached), building 2 and building 7. Building 7 is adjacent to buildings 1 and 4; and building 2 is about 100 yards away from buildings 1 and 4. Manufacturing occurs in buildings 1, 4 and 2; building 7 contains offices.

At the manufacturing facility, there are three departments: manufacturing, manufacturing services, and quality assurance. Each department has a manager who reports to the president/chief executive officer. Production, maintenance, and quality assurance employees work in buildings 1, 4 and 2; building 7 contains offices for manufacturing services. For the production employees, there are two supervisors in building 1, one supervisor in building 4, and another supervisor in building 2. There is a separate maintenance supervisor. The manufacturing supervisors and the maintenance supervisor report to the manufacturing manager. In manufacturing services, there is a production control supervisor who reports to the departmental manager. The quality assurance employees report directly to their departmental manager.

The two field service technicians are based in Newport News, Virginia, and San Diego, California, and they perform their services at the customer's facility. They report to corporate headquarters.

## Job Duties

The production processors and production controllers work in the manufacturing services department.<sup>6</sup> The production processors use the engineering drawings to develop the process for manufacturing the product. They prepare work instructions for manufacturing the product, including detailed fittings, welds, machining, and quality inspection points. The production processors do the purchase requisitions for all necessary parts and materials for manufacturing the product. They also prepare the manufacturing schedule.

The production controllers expedite all materials and collect paperwork, drawings and routers to support the manufacturing schedule. They ensure that the materials are on the production floor for each phase of production, and facilitate the movement of the product “down the line”, in order to maintain the manufacturing schedule.

The shipping and receiving employees receive all parts and materials; some require inspection by the quality assurance employees. They also inventory parts and materials, organize fabrication kits and deliver them to the production floor.

Although there is no question that the welders, fitters, assemblers, painters, and blasters are engaged in the production process, the record does not show the specific duties and skills of, or the specific equipment or machinery used by, the petitioned-for job classifications except for the welders.<sup>7</sup> All production employees receive their daily assignments from a manufacturing supervisor.

The maintenance employees repair and maintain the machines,

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<sup>6</sup> In the prior decisions, “planners, processors, and expeditors” worked in the manufacturing services department. The record shows that the production controllers have assumed the duties of the former “expeditors”.

<sup>7</sup> There is evidence that the welders use portable and “bank” welding machines; and one or more welders use the burning machine.

equipment, tools and overhead cranes used in the production process, as well as the physical plant. They cannot repair or maintain the equipment used by quality assurance employees to do non-destructive testing (NDT). The maintenance employees ensure that all requisite machinery and equipment are fully functioning at the various work stations on the production floor so the production process can proceed on schedule.

Throughout the phases of the production process, the quality assurance employees inspect, test and validate the product so it can continue in the production process. The quality assurance employees do assembly inspections and the more sophisticated NDTs.

When the product is ready to be shipped to the customer, quality assurance employees do a final inspection, shipping and receiving employees pack the product, quality assurance employees inspect the packaging, and shipping and receiving employees ship the product.

Field service technicians install, maintain and repair equipment at the customer's facility.

#### Employee Interchange

The maintenance department supervisor ("facility engineer") testified that maintenance employees do production work on an "as-needed" basis and its frequency is "hard to explain." He testified that maintenance employees have worked in production when production was very busy and maintenance was not as busy; he cited one maintenance employee who worked one weekend on a production project and an unidentified number of maintenance employees who did assembly, electrical and plumbing work on a production project. He also testified that production employees have worked with maintenance employees when production was slow. He cited two physical plant projects when production employees worked with maintenance employees

to widen an equipment doorway and to repair a roof; he also testified that production employees have repaired forklifts.

The production control supervisor testified that production employees have “helped us” due to a personnel shortage in her department; she cited one assembler who had worked as a production controller.

The quality assurance manager testified that assembly workers have worked in shipping and receiving doing simple “inspections”, e.g., counting bulk materials; and quality assurance employees have unloaded parts and materials in shipping and receiving. He testified that quality assurance employees have “assisted” production employees in moving a product by crane or forklift and in positioning a product in a fixture or on a production platform. He also testified that welders who are certified by the American Welding Society as welding inspectors have performed and documented welding inspections.<sup>8</sup>

The record does not show the frequency of employee interchange in a defined period of time in any area or department. It also does not show whether temporary assignments are voluntary or involuntary in any area or department, e.g., voluntary overtime on weekends. There is no evidence of cross-training.

With respect to permanent transfers, the sole evidence involves two certified welders: one transferred into quality assurance,<sup>9</sup> and another transferred into maintenance.<sup>10</sup>

#### Employee Contact

Maintenance employees work on the production floor doing repair and

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<sup>8</sup> At the time of the hearing, there were four certified welding inspectors in production.

<sup>9</sup> This transfer occurred three to four years ago.

<sup>10</sup> One quality assurance employee was promoted to manufacturing supervisor.

maintenance work, in the maintenance “barn”<sup>11</sup> repairing small tools and portable welding machines, and in other areas performing physical plant repair and maintenance. They work in the three production buildings and have the use of three trucks to do their work.

Although the maintenance supervisor testified that the maintenance employees work “hand-in-hand” with production employees, he clarified the phrase by providing examples of how the maintenance employees repair equipment and machines on the production floor so the production process can begin or continue with brief interruption. The record does not show that maintenance employees and production employees have worked together in order to accomplish the repair or maintenance of any machine or equipment.

Three production employees testified that they do not work directly with the maintenance employees. One production employee testified, “The maintenance employees work around us. We don’t interface. They do maintenance and I do manufacturing.”

The quality assurance employees spend their time on the production floor, except for time spent doing recordkeeping in their offices located in building 1. The record does not provide an estimate of the hours, by day or week, when the quality assurance employees are engaged in recordkeeping in their offices. The quality assurance manager testified that the contact between quality assurance employees and production employees is “constant”.

One production employee estimated that he spends a half hour to two hours a day with a quality assurance employee; another estimated he has contact with a quality assurance employee from one to five times a week depending on the job.

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<sup>11</sup> The maintenance barn is a separate fenced area off the production floor located in building 4 where maintenance employees do certain repair and maintenance work.

Production employees notify quality assurance employees when they have completed a job so they can inspect their work. If their work fails inspection, the quality assurance employee will mark the deficiencies and direct the corrective work. Upon completion of the corrective work, the production employee will notify the quality assurance employee for another inspection. There is no evidence that a quality assurance employee has ever done the corrective work himself.

The manufacturing services department has its offices in building 7. The production control supervisor testified that the production processors spend 40 to 50 percent of their time, and production controllers spend 50 to 60 percent of their time, on the production floor during actual production. The production processors and production controllers work with the manufacturing supervisors to address any problems in the production process or the availability of materials; and they will make necessary revisions in the work instructions or manufacturing schedule. They coordinate with quality assurance employees to ensure the proper placement of inspection points and make changes in the work instructions where necessary.

According to the production control supervisor, production employees have had brief conversations regarding work instructions with the production processors, and regarding problems about materials with the production controllers, during the production process. She cited a project when welders and fitters questioned production processors regarding certain work instructions. She also testified that production employees have notified production controllers, rather than their supervisor, regarding a missing item or part. Production controllers have contacted quality assurance employees to make inspections so the production process can be kept on schedule.

The production control supervisor did not proffer evidence regarding the frequency of direct contact between manufacturing services employees and production employees, or quality assurance employees, in a defined time period.

Two production employees, with employment tenures of three and seven years respectively, testified that they did not have direct work contact with production processors or production controllers during the production process. A welder testified that his sole contact with manufacturing services employees is to notify them of a problem with the burning machine.

The manufacturing manager testified that the field service technicians “probably” spend two or three weeks, four times a year, at the manufacturing facility; and they “probably primarily work in the assembly functions” because they “pick up and take back” the product to the customer.<sup>12</sup> He also estimated that welders, fitters and assemblers have worked in the field with the field service technicians for similar periods; and he cited a project in Honduras that lasted several months.

The record does not provide an explanation for the assignment of field service technicians to the manufacturing facility, e.g., to correct problems discovered in the field. The record does not specify the actual work assignments of the field service technicians at the manufacturing facility.

The record does not show the number of production employees assigned to the field in a defined time period with specified lengths of service. It also does not show whether the field assignments are voluntary or involuntary.

An assembler, who had been employed for seven years, testified that he had worked on a crane, which was to be delivered to Honduras, at the manufacturing facility. A field service technician came to the manufacturing facility to “oversee” the electrical installation. The field service technician did not perform any physical labor.

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<sup>12</sup> With respect to his testimony regarding field service technicians, the manufacturing manager often did not use definitive terms; rather, he used terms such as “probably”, “tend to”, “could be”, “believe”, and “don’t believe”.

Two welders, one employed for three years and the other for six years, testified that they had never met a field service technician.

### Supervision

In the manufacturing services department, production processors, production controllers and shipping and receiving employees are supervised by the production control supervisor. The production processors and production controllers have their offices in building 7, and the shipping and receiving employees work in building 1. In the manufacturing department, the manufacturing supervisors supervise the production employees and there is a separate supervisor for the maintenance employees. In the quality assurance department, the quality assurance employees are supervised by the departmental manager. The field service technicians report directly to corporate headquarters.

The manufacturing supervisors and the maintenance supervisor report to the manufacturing manager. The manufacturing manager, manufacturing services manager, and quality assurance manager report to the president/chief executive officer.

Manufacturing supervisors can reassign a maintenance employee or quality assurance employee based on an immediate need in the production process. Whenever an employee performs another department's work, e.g., a production employee does maintenance work, he is supervised by the other department's supervisor. There is no evidence that the other supervisor has the authority to discipline, or effectively discipline, employees from another department.

### Skills

Among the petitioned-for unit employees, skills range from the basic abilities of assemblers and shipping and receiving employees to the higher skills of the certified welding inspectors. Assemblers have to pass a "basic skills test" for assembly work. Welders must pass a welding test and have one year of welding experience. One

or more welders operate the computerized burning machine; the record shows that one welder was shown how to operate it at work without previous computer training. There is no evidence that any other production task requires the use of a computer.

In maintenance, there are four employees who work in one of the following categories: small tool repair; utility work; main electrician (some repair); and main machine repair (some electrical). The maintenance employees repair and maintain tools, equipment, machines, welding equipment, overhead cranes and forklifts. They also build production platforms and are responsible for the repair and maintenance of the physical plant.

When asked by the Employer's counsel to "define the similarity of qualification, training and skills" of the maintenance employees with the production employees, the maintenance supervisor replied, "Same skills". However, he testified that maintenance employees have done plumbing and electrical work on a production project. He also testified that a maintenance employee must have "good mechanical skills" to tear out an engine and put in a new engine.

Although the production employees may attempt to repair or maintain their machines if they feel capable of doing so, the record does not show that this is considered part of their regularly assigned duties. The maintenance employees must do all electrical work on any machine or equipment used at the facility.

With respect to assembly inspections, quality assurance employees must be good assemblers with a "little higher" skill level and a "slightly different mind set". When doing assembly inspections, the quality assurance employees use the same tools as the assemblers. In order to do the more complex NDTs such as magnetic particle, liquid penetrant, and ultrasonic tests, a quality assurance employee must be certified by the American National Standard Institute and the American Society of Non-Destructive Testing. The record does not show how many of the five quality assurance employees

are certified to do NDTs and how many of the inspections require NDTs. Quality assurance employees use reference books and manuals which are kept in their offices. Quality assurance employees use computers for recordkeeping.

The production processors and production controllers are required to have a high school diploma. They use computers to do their work. The production control supervisor testified that she believed some engineering experience was required for production processors, but she did not believe they needed a degree. The record does not define the nature or extent of the engineering experience. The production processors deal with the more technical, engineering aspects of the production process. The record does not show where or how the production processors acquired the training and skills to use engineering drawings to develop the production process, to prepare the work instructions and manufacturing schedule.

The record shows that the production controllers must be familiar with the entire production process, all materials and parts, and manufacturing schedule. They must ensure that all work stations have the requisite materials to maintain production without interruption. They must ensure that each phase of the production process moves among the designated work stations or production buildings to maintain the manufacturing schedule. On a weekly basis, the production controllers meet with representatives from manufacturing, quality assurance and engineering to address problems associated with discrepant materials. The group decides on a resolution of the problem, and the production controllers take whatever action is necessary to effectuate the resolution in order to maintain the manufacturing schedule.

Although the manufacturing supervisor testified that the field service technicians use the same tools as production and maintenance employees to install, repair and maintain the product at the customer's facility, it appears that they must have

higher skills and broader knowledge to accomplish these tasks due to the complexity of the finished product, especially as they work independently in the field.

#### Work Situs and Working Conditions

The production employees are engaged in “hands on” work on the production floor throughout the day . The maintenance employees do “hands on” work on the production floor, except for time spent in the maintenance barn or on physical plant projects. Although the quality assurance employees do “hands on” inspections on the production floor, there is no estimate of the work time spent in their offices doing recordkeeping. The field service technicians do “hands on” work at the customer’s facility. The production processors and production controllers have offices in building 7, separate from the production buildings. Despite time spent on the production floor, they do not engage in “hands on” work during the production process.

The production employees and maintenance employees work either a day shift or a temporary night shift, 10 hours a day, four days a week. Quality assurance employees have staggered hours to cover the temporary night shift; they report early or stay late. They work more overtime than production employees. The record does not show the normal working hours for the manufacturing services employees; they have been working overtime due to the temporary night shift. The record does not show the normal working hours for field service technicians.

The production employees punch a time clock. The maintenance, manufacturing services, quality assurance employees, and field service technicians do not punch a time clock; rather, they record their working hours on time sheets. Maintenance employees do not punch a time clock because they do not take regularly scheduled breaks, and even miss breaks, in order to make repairs so that production can resume without interruption. Quality assurance employees, field service

technicians, and manufacturing services employees must account for their work time by the job number.

There are two break areas: one is located outside the supervisors' offices on the production floor and the other is located in a trailer (designated as non-smoking) outside the quality assurance employees' offices. Although all employees can use both break areas, the quality assurance employees take their breaks in their offices; they have a coffee pot there. The record does not show where the manufacturing services employees take their breaks.

The production employees are required to use the parking lot located next to building 2. The quality assurance employees and maintenance employees are permitted to use the "supervisors"<sup>13</sup> parking lot which is located next to buildings 1 and 4. If assigned to work the temporary night shift, production employees are permitted to use the "supervisors" parking lot. Uniforms are optional: production employees wear blue uniforms, maintenance employees wear blue coveralls, and quality assurance employees wear brown uniforms.

The Employer's policies and practices such as pre-employment drug screening and written evaluations apply to all employees. All employees have the same benefits such as health insurance, 401(k) plan, paid vacation and holidays. Production, maintenance, and quality assurance employees are eligible for safety awards issued biannually by the Employer.

With the exception of production processors and production controllers, all employees are paid hourly and earn overtime. Production employees earn from \$10 to \$16 an hour. The maintenance employees earn from \$13 to \$15 an hour, which is comparable to the certified welders. The quality assurance manager testified that the

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<sup>13</sup> The Petitioner does not contend that maintenance employees or quality assurance employees are Section 2(11) supervisors.

“assembly inspectors” have three ranges for hourly wages: \$9 to \$11, \$11 to \$14, and \$14 to \$16.50;<sup>14</sup> he did not testify regarding the hourly wage rates for the employees certified to do NDTs.<sup>15</sup>

In response to questions from the hearing officer, the production control supervisor testified that the salaried production processors start at the equivalent of \$16 an hour, and the salaried production controllers earn the equivalent of between \$12 and \$15 an hour.<sup>16</sup>

The record does now show the hourly wages of the field service technicians, or whether they receive additional compensation for travel in the field (for example, hotel and meal expenses) as reflected in their hourly wages or in any other manner.

#### ANALYSIS

The National Labor Relations Act requires an election be held in an appropriate unit. The Board is not required to approve the most appropriate unit or the most comprehensive unit. Executive Resources Associates, 301 NLRB 400, 401 (1991); Morand Brothers Beverage Co., 91 NLRB 409 (1950) enfd. 190 F.2d (7<sup>th</sup> Cir. 1951). In assessing the appropriateness of the petitioned-for unit, several criteria must be examined including functional integration, employee interchange and contact, common supervision, skills and functions, general working conditions, work situs, and wages and

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<sup>14</sup> He “guessed” as to the lowest hourly wages, and he “speculated” as to the highest hourly wages.

<sup>15</sup> When first questioned regarding the wages paid to quality assurance employees, the quality assurance manager testified: “I could tell you what they all make.” However, he then testified: “There are three ranges for an assembly inspector.” He proffered no other evidence regarding wages.

<sup>16</sup> After the hearing officer’s questions, on redirect examination by the Employer’s counsel, she was asked if she “converted” the salary rate to an hourly rate would be it be comparable to the hourly rate of production employees. She testified that since “in most cases”, especially due to the temporary night shift, the production processors and production controllers work an average of 45 to 50 hours a week (with no paid overtime), their hourly rate would be reduced to \$13 an hour.

benefits. Ore-Ida Foods, Inc., 313 NLRB 1016, 1019 (1994), citing Franklin Mint Corp., 254 NLRB 714, 716 (1981).

### Maintenance Employees

There are four maintenance employees who report to a separate maintenance supervisor. The maintenance employees support the manufacturing process by repairing and maintaining all tools, equipment, machines, and overhead cranes used by the production employees. They possess the skills to do electrical and plumbing work. They are responsible for the repair and maintenance of the physical plant. They are the sole employees who possess the requisite skill level, knowledge and experience to perform the wide range of duties and functions that are unique to their job classification.

The higher skill level of the maintenance employees is reflected in their higher wage rates of \$13 to \$15 an hour as compared to the production employees who earn from \$10 to \$16 an hour. The higher wage rates of the maintenance employees are comparable to the wages earned by the certified welders, who are the highest skilled production employees.

The maintenance employees do their repair and maintenance work on the production floor and physical plant in three manufacturing buildings, as well as the maintenance “barn”. They have the use of three trucks to accomplish their tasks. Thus, they are far more mobile than the production employees. Although they spend most their time on the production floor, the record does not show that maintenance and production employees have ever worked together to accomplish a repair or maintenance job on the production floor.<sup>17</sup>

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<sup>17</sup> It is noted that some production employees worked with maintenance employees to repair a roof damaged by a hurricane, which would seem to be a rather unusual occurrence.

Although there is evidence that some assemblers will attempt to repair and maintain their machines if they feel capable of doing so, the record does not show that such duties are part of their regular work assignments or require the skills that are more representative of the maintenance employees. Moreover, the record does not show if other production employees do so on any regular basis. In addition, production employees are not permitted to do any electrical work.

The maintenance department supervisor testified that maintenance employees do production work on an “as needed” basis that is “hard to explain”. He explained that they have done so when production was busy and maintenance was slow. He cited two examples only, one of which involved a single employee working on a weekend. It appears unlikely that this situation of a heavy production workload but light maintenance workload occurs frequently. Rather, it would seem logical that when production work picks up, so does the work of the maintenance employees: there are only four maintenance employees to do the repair and maintenance work in three manufacturing buildings. There is no evidence of cross-training. In any event, the minimal testimony proffered by the maintenance supervisor does not establish any significant level of interchange.

The sole evidence of a permanent transfer of a production employee into the maintenance department involved a certified welder. As noted, the certified welders possess the highest skill level among the production employees. There is no evidence that a maintenance employee has ever transferred into production.

Although there is evidence that maintenance employees can be reassigned by manufacturing supervisors to do a repair or other task to insure that the production process is not interrupted, there is no evidence that the manufacturing supervisors have ever disciplined, or effectively recommended the discipline, of any maintenance employee. Such circumstances do not establish common supervision as

the manufacturing supervisor is merely identifying an immediate problem that requires immediate action.<sup>18</sup>

Unlike production employees, the maintenance employees do not punch a time clock as they do not take regularly scheduled breaks, and even miss breaks, due to their virtual “on call” status. They must be available to make repairs at any time so that production can continue with brief interruption. Unlike the production employees, they use a separate parking lot closer to the main manufacturing buildings.<sup>19</sup>

In summary, as compared to the production employees, the maintenance employees have a significantly higher skill level with generally higher hourly wages, separate supervision, a separate work area known as the “barn”, unique “on call” status, greater mobility, and use a separate parking lot. There has been only one permanent transfer; and the evidence of temporary transfers is not significant. Although the maintenance employees spend most of their time on the production floor, their work does not directly involve or require the assistance of the production employees. Thus, the maintenance employees do not share a sufficient community of interest with the petitioned-for unit employees so as to require their inclusion in the petitioned-for unit.<sup>20</sup>

#### Quality Assurance Employees

The five quality assurance employees report directly to the manager of the quality assurance department. Throughout the production process, they inspect, test and validate the product. There is evidence that an assembly inspector needs only a

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<sup>18</sup> See Ore-Ida Foods, Inc., 313 NLRB 1016, 1019 (1994).

<sup>19</sup> It is noted that production employees are permitted to do so on the temporary night shift which has fewer employees than the regular day shift.

<sup>20</sup> See Capri Sun, Inc., 330 NLRB No. 158 slip op. at 2-3 (2000). The Board overruled a Regional Director’s Decision and directed an election in a separate maintenance unit where the maintenance employees had higher skills and wages; separate supervision and separate department; voluntary performance of maintenance tasks by production employees; some overlapping duties; unscheduled breaks due to “on-call”; assistance and contact with production employees related to maintenance problems. See also Macy’s West, Inc., 327 NLRB No. 201 slip op. at 2 (2000).

“little higher” skill level and a “slightly different mind set” than an assembler. However, the quality assurance employees who do the more complex NDTs must be certified by two national organizations. The record does not show how many of the quality assurance employees are certified to do NDTs, and how many inspections require NDTs.

It appears that the quality assurance manager testified regarding the three ranges of wage rates for the assembly inspectors only, which would show that their wages are comparable to the production employees. Thus, it is possible that the quality assurance employees who are certified to do NDTs earn significantly higher hourly wages than the production employees.

The record shows that the quality assurance employees have regular direct contact with the production employees. When production employees finish a job, they contact quality assurance employees to inspect their work. If their work fails inspection, the quality assurance employee marks the deficiencies and directs the corrective work. The quality assurance employees do not do the corrective work.

Although there is evidence that a certified welding inspector could do welding inspections for the quality assurance department, the record does not show whether they do so on any regular basis. The evidence that some production employees have worked in the shipping and receiving area counting bulk materials does not rise to the typical level of quality assurance work. The minimal assistance offered by quality assurance employees to production employees (moving or positioning a product, loading or unloading materials), especially in the absence of evidence regarding its frequency in a defined time period, does not show a significant level of interchange. Moreover, there has been only one permanent transfer of a production employee into quality assurance: a certified welder transferred there about three to four years ago.

The quality assurance employees have separate offices, with computers, for recordkeeping. They also keep reference manuals and materials there. The record does not show the amount of work time spent in their offices. No production employees need computer skills, with the possible exception of the welder who operates the burning machine. They do not punch a time clock. The quality assurance employees take their breaks in their offices, where they have a coffee pot. They use a separate parking lot.

Although it is recognized that the Board often includes quality assurance employees in a production and maintenance unit, the record provides evidence that supports their inclusion and other evidence that supports their exclusion. More importantly, the record does not provide evidence regarding significant factors necessary to make a finding of a shared community of interest.

In summary, the quality assurance employees work in a separate department and report directly to the departmental manager. They also have separate office space. However, there is evidence that the quality assurance employees have regular direct contact with the production employees. Significantly, the record does not show the number of employees certified to do NDTs and how many of the inspections require NDTs. There is one instance of permanent interchange; the evidence of temporary interchange is insignificant. There is some question as to their hourly wages, they do not punch a time clock, they take their breaks in their offices, and they use a separate parking lot.

In these circumstances, where the missing evidence would affect a balancing of the various community of interest factors, I find that the quality assurance employees shall be permitted to vote subject to challenge in the election directed herein.

### Production Processors and Production Controllers

The two production processors and the two production controllers have separate supervision in the manufacturing services department.<sup>21</sup> Their offices are located in building 7 where no manufacturing is done. They must have a high school diploma and computer skills; engineering experience is required for the production processors.

The record establishes that the production processors must possess a high level of skills in order to take engineering drawings and design the entire manufacturing process including detailed work instructions, and to prepare all purchase requisitions and the manufacturing schedule. The production controllers must be knowledgeable of the entire manufacturing process, all materials and parts, and the manufacturing schedule. Both production processors and production controllers must be able to address problems and make revisions in the manufacturing process in order to maintain the manufacturing schedule. Thus, they must exercise independent judgment in fulfilling their job functions and duties. The salaries of the production processors and production controllers reflect their higher level of skills and responsibilities, as compared to the production employees.

There is no evidence of permanent transfers between production and manufacturing services. There is evidence of one instance of a production employee “helping” the manufacturing services department due to a staff shortage. There is no dispute that the production processors and production controllers have contact with the manufacturing supervisors on the production floor. Although the production control supervisor testified that production employees have had brief conversations with

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<sup>21</sup> It should be noted here that the manufacturing services department has been reorganized as to job classifications since the issuance of the prior decisions in 1993 and 1994. Due to the issue related to the identity of the “pre-processing processors” and the “pre-processing” employees, this analysis does not relate to them.

production processors and production controllers regarding work instructions or a missing part, she provided no estimate of the frequency of these brief contacts in a defined time period.<sup>22</sup> Production employees raise the same problems with their supervisors. Moreover, two production employees testified that they have never had direct contact with production processors and production controllers; and a welder testified that his sole contact is to notify them of a problem with the burning machine.

The record does not show the regular working hours of the manufacturing services employees, although they are working extra hours due to the temporary night shift. They do not punch a time clock. The record does not show where they take their breaks and where they park.

Although the production control supervisor testified that she also supervises the shipping and receiving employees who are located in building 1, the record does not show how much time she spends there, away from her offices in building 7.

In its brief, the Employer cites several cases in support of its argument that the production processors and the production controllers should be included in the petitioned-for unit.<sup>23</sup> Unlike the instant case, in Raytee Co., 228 NLRB 646 (1977), there was evidence that the disputed employees punched a time clock, earned hourly wages within the range of production employees, substituted for a production employee, and did not need to exercise independent judgment in their less sophisticated job functions and duties.

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<sup>22</sup> See Weldun International, Inc., 321 NLRB 733, 735 (1996).

<sup>23</sup> In its analysis of Lindberg Heat Treating Co., 245 NLRB 1133 (1979), the Employer failed to note that the Board directed that a hearing be held as to whether the “expediter” was a Section 2(11) supervisor because of his role in the hire, assignment and direction of employees and his recommendation of overtime. In addition, the expediter occasionally did production work and he had an office just off the production floor.

Texprint, Inc., 253 NLRB 1101(1981), is also distinguishable as a technician decided the manner in which a fabric screen should be produced, and the “process control clerks” prepared an order for the fabric screen and sent pictures of the design to clericals who produced the fabric screen. Thereafter, he kept the customer informed of the production process. It is obvious that these job functions and duties require far less skill and knowledge, are far more limited as to responsibility, and do not require the exercise of independent judgment, as compared to production processors and production controllers.

Container Research Corp., 188 NLRB 586 (1971), has several significant differences from the instant case as the disputed employees were in the same department, had the same supervisor, and earned wages comparable to the production and maintenance employees.<sup>24</sup> They did not have an office located in a non-manufacturing building, and they spent 90 to 95 per cent of their time on the production floor.

In summary, the factors of higher skill levels, distinctive job duties and functions, broader knowledge necessary to fulfill greater responsibilities, higher wages, salaried status, separate offices, separate supervision in a separate department, no permanent interchange, one instance of temporary interchange, insufficient evidence of regular and substantial contact with production employees, all support the finding that the production processors and production controllers do not share a sufficient community of interest with the production employees so as to require their inclusion in the petitioned-for unit.

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<sup>24</sup> It is noted that the production control supervisor also supervises the shipping and receiving employees, but there is no evidence as to her time spent in their building and no evidence as to the number of shipping and receiving employees.

### Field Service Technicians

One field service technician is based in San Diego, and the other is based in Newport News. They report directly to corporate headquarters. They are responsible for the installation, repair, and maintenance of the Employer's complicated marine specialty equipment at the customer's facility. It is simply logical that they must possess higher skills and a broader range of knowledge because they must be familiar with whatever complex piece of equipment is located at the customer's facility.

The manufacturing supervisor's testimony is so vague that it cannot be relied upon to establish with any specificity their presence at the manufacturing facility or their duties and contact with production employees at the manufacturing facility. His testimony regarding the assignment of production employees in the field fails to show the number of employees, the type of assignment, and the extent of their stay with any specificity. There is no evidence that a production employee has ever transferred into the position of field service technician.

Two production employees testified that they had never met a field service technician. An assembler, who had worked for seven years, testified that he had worked twice on a crane where a field service technician oversaw the electrical installation and performed no manual labor.

The record fails to show the wages and the regular working hours of the field service technicians.

In summary, as compared to the production employees, the field service technicians have separate supervision, must possess a higher level of skills and broader knowledge of the Employer's product to accomplish their distinctive job functions, and spend the vast majority of their time in the field travelling among customer facilities. There is no evidence of permanent transfers, and vague testimony regarding temporary interchange, between field service technicians and production employees. The

testimony of the three production employees shows minimal contact with field service technicians. Thus, there is insufficient evidence to find that the field service technicians share a sufficient community of interest with the petitioned-for unit employees so as to require their inclusion in the petitioned-for unit.

Accordingly, I find that the following employees of the Employer constitute an appropriate unit for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time employees<sup>25</sup> including welders, fitters, assemblers, painters, blasters, shipping and receiving employees employed by the Employer at its Brunswick, Georgia, facility, excluding all maintenance employees, production processors, production controllers, field service technicians, office clerical employees, guards and supervisors as defined in the Act.

#### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or

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<sup>25</sup> As noted above, the pre-processing employees, the pre-processing processors and the quality assurance employees shall be permitted to vote subject to challenge in the election directed herein.

been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.<sup>26</sup> Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local Union No. 177, AFL-CIO.

Dated at Tampa, Florida, this 11<sup>th</sup> day of October, 2000.<sup>27</sup>

/s/ Rochelle Kentov  
Rochelle Kentov, Regional Director  
National Labor Relations Board, Region 12  
201 E. Kennedy Boulevard, Suite 530  
Tampa, FL 33602

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<sup>26</sup> In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that two (2) copies of the election eligibility list for the unit, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director for Region 12 within 7 days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). In order to be timely filed, such list must be received by the Regional Office, SouthTrust Plaza, Suite 530, 201 E. Kennedy Boulevard, Tampa, Florida 33602-5824 on or before October 18, 2000. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

<sup>27</sup> Under the provisions of Section 102.67 of the Board's Rules and Regulations, Series 8, as amended, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC 20570-0001. This request must be received by the Board in Washington, DC by October 25, 2000.